

July 18,1996

In the Matter of: *

*

Administrator *

U.S. Department of Labor *

Prosecuting Party *

Case No. 96-LCA-3

*

v. *

*

Levithon Manufacturing Co., Inc. *

Respondent *

DECISION AND ORDER APPROVING SETTLEMENT AGREEMENT
AND CONSENT FINDINGS

For the purpose of disposing of this matter without there being any trial or adjudication of any issue of fact or law and without constituting a finding of the Secretary within the meaning of 8 U.S.C. § 1182(n)(2)(C) and for no other purpose, the parties agree as follows:

1. This action arises under the Immigration and Nationality Act (the "Act"), as amended, 8 U.S.C. §§ 1101(a)(15)(H)(i)(b) and 1184(i) and 29 C.F.R. Part 507, for a hearing involving alleged violations of the provisions of Section 1182(n) of the Act and the assessment of a civil money penalty.

2. On April 17, 1996, the Administrator of the Wage and Hour Division, United States Department of Labor, issued a determination that a basis existed to make a finding that Respondent had substantially failed to meet a condition in the notice requirement of the Act and had failed to comply with the regulations. As part of that determination, a civil money penalty was assessed.

3. Respondent made a request for a hearing, challenging the Administrator's determination.

4. The parties subsequently entered into negotiations designed to resolve this matter amicably. As a result of these negotiations, the parties have agreed to settle this litigation in

exchange for certain mutual agreements. These agreements are as follows:

a. Respondent agrees to the payment of an assessment in the amount of \$1,000.00. This assessment is to be paid by check made payable to "Wage and Hour Division, U.S. Department of Labor".

b. Respondent agrees to refrain from filing visa applications or renewals on behalf of and/or from hiring non-immigrant aliens in specialty occupations, as defined in 8 U.S.C. § 1101(a)(15)(H)(i)(b), at their Warwick, Rhode Island, facility for a period of one year from the date of this agreement by counsel for the U.S. Department of Labor.

c. Respondent agrees to comply in all respects with the Act and applicable regulations in connection with any future H-1B application.

5. This stipulation shall substitute for assessments made under the determination order entered into by the Administrator, Wage and Hour Division, U.S. Department of Labor, which is the subject of this appeal; and except as otherwise provided in this agreement, the Respondent shall not be subject to any additional statutory penalties or debarment.

6. Respondent's failure to carry out any portion of this settlement agreement shall subject Respondent to the statutory penalties for failure to meet a condition in the notice requirement and/or failure to otherwise comply with the regulations found at 8 U.S.C. § 1182(n)(2)(C) and 29 C.F.R. Part 507.

7. The entire record upon which any order entered into in conformance with this agreement shall consist of the Administrator's determination, Respondent's request for hearing, and this agreement.

8. The parties waive any further procedural steps before the Administrative Law Judge and waive any right to challenge or contest the validity of the Settlement Agreement and Consent Findings and Order entered into in accordance with this agreement.

9. This agreement shall fully and finally resolve all outstanding issues between the parties that were raised, or reasonably could have been raised, in the Administrator's determination of April 17, 1996.

10. Each party shall bear its own costs, attorney's fees, and expenses.

ORDER

The undersigned, having reviewed the Settlement Agreement and Consent Findings, concludes that this settlement is in the best interests of all the parties; and it is therefore ORDERED that the Settlement Agreement and Consent Findings are hereby APPROVED pursuant to the provisions of 29 C.F.R. § 507.840.

JOEL F. GARDINER
Administrative Law Judge

Dated: July 18, 1996

Boston, Massachusetts

JFG:ln